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February 26, 2015

COMMITTEE SUBSTITUTE
FOR

SENATE BILL NO. 468

By: Marlatt

[oil and gas - right to compensation - private
property compensation laws - notification - hearing -
preliminary value determination - challenge -
regulatory restriction - fees and costs - appeal -
codification -

~~emergency~~]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 137.1 of Title 52, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Local government" means a county or a municipality incorporated in accordance with the laws of the state; and

2. "Owner" means the person who has the right to drill into and produce from a pool and to appropriate the oil or gas produced therefrom either for the owner or others or for the owner and others, including the owner of a well capable of producing oil or gas or both.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 137.2 of Title 52, unless there
3 is created a duplication in numbering, reads as follows:

4 Whenever a local government adopts or implements an ordinance,
5 resolution, rule, regulation or other form of official policy
6 concerning mineral extraction operations that has the effect of
7 reducing the fair market value of the mineral interest of the owner
8 by at least sixty percent (60%), the interest of the owner is deemed
9 to have been taken for a public use. In such circumstances, the
10 owner has the right to obtain compensation from the local government
11 for the full diminution in the fair market value of the mineral
12 interest caused by the regulatory impairment by the local
13 government.

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 137.3 of Title 52, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Except as otherwise provided for in this act, this act is
18 intended to supplement and is not intended to displace or supersede
19 existing rights, powers, and responsibilities provided by law for
20 the payment of compensation where private property is taken for a
21 public use.

22 B. On or after the effective date of this act, not less than
23 sixty-three (63) days before an owner intends to undertake new
24 mineral extraction operations within the territorial boundaries of a

1 local government, the owner shall notify the local government in
2 writing of the intent of the owner to undertake such operations.

3 C. 1. Upon receiving the notice specified in subsection B of
4 this section, if the local government intends to adopt or implement
5 an ordinance, resolution, rule, regulation or other form of official
6 policy concerning mineral extraction operations that has the likely
7 effect of reducing the fair market value of the mineral interest of
8 the owner by at least sixty percent (60%), the matter shall be set
9 for a hearing before a board of county commissioners, the governing
10 body of a municipality or a jury in accordance with existing
11 procedures for resolving claims for compensation where private
12 property is taken for a public use. Any owner with a potential
13 claim in the matter may elect to have the matter resolved by a state
14 district court with appropriate jurisdiction if the owner does not
15 want to have the matter resolved by a board of county commissioners,
16 the government body of a municipality or a jury. The purpose of the
17 hearing shall be to make a preliminary value determination of the
18 interest of the owner.

19 2. The hearing as set forth in paragraph 1 of this subsection
20 shall be set not less than seven (7) days following service of
21 notice as set forth in subsection B of this section. The local
22 government shall notify the owners in writing with a potential claim
23 in the matter of the hearing. Any owner may be heard at the hearing
24 on the determination of value.

1 D. Not less than ten (10) days following the hearing referenced
2 in subsection C of this section, the board of county commissioners,
3 governing board of the municipality, jury or district court, as
4 applicable, shall issue a preliminary value determination of the
5 interest of the owner that has been affected as a result of the
6 regulatory impairment. The owner may challenge the preliminary
7 value determination on the basis that the award is too low, but the
8 local government shall not challenge the preliminary value
9 determination on the basis that the award is too high.

10 E. The local government may proceed with implementing the
11 ordinance, resolution, rule, regulation or other form of official
12 policy concerning mineral extraction operations that constitutes the
13 regulatory impairment if it tenders the full amount of the
14 preliminary value determination to the owner within seven (7)
15 business days after the hearing. The amount tendered shall also
16 include the reasonable attorney fees and costs incurred by the
17 owner. If the local government fails to tender the full amount by
18 the date specified in this subsection, the local government shall be
19 precluded from implementing the ordinance, resolution, rule,
20 regulation or other form of official policy.

21 F. The local government may appeal the preliminary value
22 determination if it posts a bond for the full amount of the award or
23 makes a deposit with a financial institution in the full amount of
24 the award in escrow in an interest-bearing account.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 137.4 of Title 52, unless there
3 is created a duplication in numbering, reads as follows:

4 The provisions of this act shall apply to any ordinance,
5 resolution, rule, regulation or other form of official policy
6 concerning mineral extraction operations adopted or implemented by a
7 local government on or after the effective date of this act.

8 ~~SECTION 5. It being immediately necessary for the preservation~~
9 ~~of the public peace, health and safety, an emergency is hereby~~
10 ~~declared to exist, by reason whereof this act shall take effect and~~
11 ~~be in full force from and after its passage and approval.~~

12 COMMITTEE REPORT BY: COMMITTEE ON ENERGY
February 26, 2015 - DO PASS AS AMENDED
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